

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF ALABAMA**

In re

Case No. 08-11772-DHW
Chapter 13

ANTHONY RADETIC,

Debtor.

**ORDER DENYING
DEBTOR'S MOTION TO RECONSIDER**

On January 18, 2009, this court entered an order (Doc. #39) granting the motion of The Eufaula Agency, Inc. and modifying the automatic stay so as to permit continuation of a cause of action in the Circuit Court of Barbour County, Alabama, CV-2006-64. On January 26, 2009, the debtor filed a motion (Doc. #42) seeking reconsideration of that order.

The debtor contends that the Circuit Court of Barbour County, Alabama found the debtor liable for breach of contract by default due to that court's "misinterpretation" of the debtor's efforts in responding to discovery requests. Further, the debtor contends that the Circuit Court erred by entering the default as a sanction which included a finding of fact. For these reasons, the debtor contends that this court should set aside its order modifying the automatic stay and litigate the dispute in this forum.

In the view of the undersigned, as explained in the memorandum (Doc. #38), the law requires this court to abstain from deciding this dispute. This court enjoys only "related to" jurisdiction with respect to this State law cause of action, the proceeding was commenced in State court prior to the debtor's bankruptcy, and nothing in the record indicates that the proceeding cannot be timely adjudicated there. Hence, under the statute, 28 U.S.C. § 1334(c), abstention by this court is mandatory.

Finally, in the event that the Circuit Court of Barbour County, Alabama has erred, as the debtor contends, in finding the debtor liable by default for breach of contract by way of sanction, that matter may be redressed by seeking that court's reconsideration or by appeal. Accordingly, it is

ORDERED that the debtor's motion for reconsideration of this court's order

modifying the automatic stay is DENIED.

Done this the 27th day of January, 2009.

/s/ Dwight H. Williams, Jr.
United States Bankruptcy Judge

c: Anthony Radetic, Debtor
Collier H. Espy, Jr., Attorney for Debtor
Joel P. Smith, Jr., Attorney for The Eufaula Agency
Curtis C. Reding, Trustee